

## Assembly Bill No. 2723

### CHAPTER 92

An act to add Section 11440.45 to the Government Code, relating to evidence.

[Approved by Governor June 28, 2002. Filed with  
Secretary of State June 30, 2002.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2723, Washington. Evidence: admissibility.

Existing law provides for the inadmissibility of certain evidence as a matter of public policy, including portions of statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence relating to the pain, suffering, or death of a person involved in an accident and made to that person or to the family of that person, which are inadmissible as evidence of an admission of liability in a civil action. However, a statement of fault which is part of or in addition to any of the above is not inadmissible.

This bill would extend this rule of evidence to the admissibility of evidence of an admission of liability in proceedings pursuant to the Administrative Procedure Act.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11440.45 is added to the Government Code, to read:

11440.45. (a) In any proceedings pursuant to this chapter or Chapter 5 (commencing with Section 11500), the portion of statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence relating to the pain, suffering, or death of a person involved in an accident and made to that person or to the family of that person shall be inadmissible as evidence of an admission of liability. A statement of fault, however, which is part of, or in addition to, any of the above shall not be inadmissible pursuant to this section.

(b) For purposes of this section:

(1) "Accident" means an occurrence resulting in injury or death to one or more persons which is not the result of willful action by a party.

(2) "Benevolent gestures" means actions which convey a sense of compassion or commiseration emanating from humane impulses.



(3) “Family” means the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, adopted children of parent, or spouse’s parents of an injured party.

